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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,925	10/27/2003	Justin Monk	020375-043600US	5092
20350	7590	11/25/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			FISCHETTI, JOSEPH A	
		ART UNIT	PAPER NUMBER	
		3627		

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/694,925	MONK, JUSTIN
	<b>Examiner</b>	<b>Art Unit</b>
	Joseph A. Fischetti	3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 12 September 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 8-22 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blossom in view of Cameron et al. and Melchione et al.

Blossom discloses receiving at a POS device a cost (col. 3, line 28 card 10 may be used with a POS device which means a cost incurred) identifying an instrument associated with a stored-value account and a credit account (card 10), generating a request to select a distribution of the cost for the transaction among the stored-value and credit accounts for presentation at the point-of-sale device (Blossom discloses use of his card in a conventional card reader which "allows a user to select a card feature" the mere presentation of plural payment options is read as "generating a request" because the card won't function unless a selection is made; the step of transmitting the cost payment to the financial institution is deemed obvious and old to the card reader art and is accomplished in Cameron et al.

However Blossom does not disclose the stored-value account and the credit account linked substantially contemporaneously with issuance of the instrument to the customer nor does it teach a selected distribution identifying a first non zero portion of the cost of the trans action applied to a stored value and a second non zero of the cost

of the transaction to be applied to a credit card. However, Cameron et al do disclose selecting a non zero portion of a charge to be allocated between two credit cards, a credit card and a stored value instrument (e.g., a non specific dollar off coupon or gift certificate) or between two stored value instruments, see col. 11,lines 55 et seq. It would be obvious to modify the POS sales device of Blossom to include the receiving at the POS terminal a response in the form of an elective distribution feature of allocating payments between stored value gift certificate and credit card as taught by Cameron because the motivation would be to limit the use of the credit card and hence the limiting of high rates of interest.

Regarding the limitation of substantially contemporaneously linking the stored values and the credit card, the scheme of Fig. 16 shows the linked system which is read as being substantially contemporaneous. In addition, Melchione et al. do disclose a system where "in a single session" accounts are linked together. (see, Abstract of US '764 last sentence "The system... for opening an account in a *single session* that is in communication with ... .") It would be an obvious modification to Blossom to include the single session linking feature in order to link the stored value and the credit accounts at substantially the same time, the motivation being that this will keep both accounts as an option from the beginning of the card's use.

Re claim 2: Blossom discloses use of his card in a conventional card reader which "allows a user to select a card feature".

Re claims 3 and 4: official notice is taken with respect to which items are available for stored value points see e.g. frequent flyer points cannot be applied during

holiday flights and some retail businesses restrict what can be purchased by credit cards e.g. stamps and lotto tics are cash based only.

Re claim 5: see col. 7 lines 6-9 for display of stored value.

Re claims 6 and 7: the step of applying only what is available in either credit or value to a cost and/or splitting same between them is deemed an old an obvious expedient.

REPLY:

Applicant's arguments filed 11/12/2005 have been fully considered but they are not persuasive.

Applicant argues that Cameron does not disclose receiving at a point of sale device a response identifying nonzero distributions. This statement is only half correct. As pointed out above, Cameron does disclose identifying a selected distribution of a first nonzero portion and a second nonzero portion applied to different payment vehicles. The teaching of a credit card and a stored value account is found in Blossom and the allocation between each is found in Cameron. Blossom is a device usable at a POS device and hence that limitation is met.

Next applicant argues that "Blossom teaches a reader which selects a single feature at a time not the two accounts". This argument makes no sense given that it is admitted that Blossom does not provide for the allocation between payment vehicles and it is the

obvious outcome of the combination to Cameron which generates the two account distribution.

Applicant argues the POS device transmits the instruction for distributions in the invention and in Cameron this is not the case. However this is not true. The device in Cameron et al is a POS device in that the user operates the computer to effect a purchase. Even if that cannot be gleaned from Cameron, it is clear from the base reference to Blossom that a POS terminal conducts the transaction.

Finally, applicant argues that Melchione although disclosing substantially contemporaneous linking of the payment vehicles with the issuance of the instrument, does not discuss issuance of an instrument to a customer. However, this again is not true. Melchione discloses bank card feeds, etc 21-25, which are opened/linked contemporaneously with one another via the central database when an account e.g. an instrument is opened/issued.

The motivation is clear in each of the references used. Each deals with electronic purchases and each has a mechanism for addressing plural accounts of which it is desired to work together.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.



Joseph A. Fischetti  
Primary Examiner  
Art Unit 3627